

REMARKS

Claim 1 has been canceled.

New claims 16 to 22 have been added.

Claims 16 to 22 remain in the application. Claim 1 is the sole independent claim.

Claim 1 as originally submitted stood rejected under 35 U.S.C. §102(b) as being anticipated by White (US 3,800,788). Neither White nor the other documents of record teaches or suggests a system that (i) comprises an expandable body sized and configured -- when in a collapsed condition -- to be inserted within a fracture region of a bone that is defined by collapsed cortical bone surfaces, and -- when in an enlarged condition -- to move apart the cortical bone surfaces within the fracture region to affect movement of another region remote from the fracture region toward a desired anatomic orientation, and (ii) further includes a bone fixation device sized and configured to be applied to the bone to retain the other region of the bone at or near the desired anatomic orientation during a period of healing. The restoration of the anatomy of a bone region remote from a fracture region is shown, e.g., in Figs. 3 and 5 of the Specification.

The preamble of independent claim 1 defines the system in the context of treating a bone having a fracture region and another region remote from the fracture region that has been affected by the fracture region. The preamble cannot be ignored, but should properly be read and considered to give meaning to the claims and to define the invention. The preamble constitutes a limitation of the claims, and should be given consideration in determining patentability, particular when, as here, the claimed device is structurally distinguishable from the prior art in significant ways.

Reconsideration in view of the foregoing amendments and remarks and allowance of claims 16 to 22 are respectfully requested.

Respectfully Submitted,

By _____


Daniel D. Ryan
Registration No. 29,243

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
2 September 2004
Customer No.: 26308

Enclosures: Amendment Transmittal Letter
Return Postcard